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September 12, 2000

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., SW  
Washington, D.C. 20554

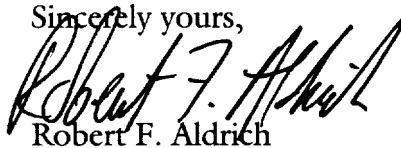
**NOTICE OF EX PARTE  
PRESENTATION**

Re: CC Docket No. 96-128 (remand of inmate service issues)

Dear Ms. Salas:

The enclosed document is submitted for the record in this proceeding to amplify the Inmate Calling Service Providers Coalition's response to the RBOC/GTE Payphone Coalition's ex parte presentation, "Inmate Payphones: Clearing Up Misconceptions," filed June 7, 2000.

Sincerely yours,



Robert F. Aldrich

RFA:nw

enclosure

cc: Tamara Preiss  
Jay Atkinson  
Adam Candeub

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List A B C D E

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WRITTEN EX PARTE PRESENTATION  
CC DOCKET NO. 96-128  
VOLUNTARY REMAND OF INMATE TELEPHONE SERVICE ISSUES

INMATE CALLING SERVICE PROVIDERS COALITION

RESPONSE TO THE RBOC/GTE PAYPHONE COALITION EX PARTE  
“INMATE PAYPHONES: CLEARING UP MISCONCEPTIONS”

September 2000

The fundamental issue in this remand proceeding with respect to subsidies and discrimination is whether inmate collect calling service, which is the only telephone service available to inmates in most confinement facilities, is subject to the Section 276 ban on incumbent local exchange carriers (“ILECs”) subsidizing and discriminating in favor of their “inmate telephone service.” 47 U.S.C. § 276(a), (d).

The 1996 Act prohibits RBOCs from subsidizing, or discriminating in favor of, their own payphone services, including “inmate telephone service.” 47 U.S.C. § 276(a), (d). To prevent such subsidies and discrimination, the Commission must, at a minimum, prescribe *Computer III*-style safeguards. *Id.*, § 276(b)(1)(A). These safeguards which require accounting separation between an ILEC’s “regulated” and “nonregulated” activities, can be effective in preventing subsidies and discrimination in favor of an ILEC’s inmate telephone services only if those inmate telephone services are classified as “nonregulated.” The Inmate Calling Service Providers Coalition (“ICSPC”) contends that inmate collect calling service, which is the primary (and in most facilities the only) telephone service offered in confinement facilities, is included in “inmate telephone service.” Accordingly, ILECs may not subsidize or discriminate in favor of their inmate collect calling services, and inmate collect calling service must be classified as “nonregulated” for purposes of the *Computer III*-style safeguards relied upon by the Commission to prevent subsidies and discrimination.

On June 7, 2000, the RBOC/GTE Payphone Coalition filed a lengthy ex parte presentation in which they argued that incumbent local exchange carrier (“ILEC”) inmate collect calling services should remain “regulated” for purposes of the *Computer III* safeguards against cross-subsidy and discrimination mandated by the 1996 Telecommunications Act (47 U.S.C. §276(a) (b)(1)(B)), (C). *See* RBOC/GTE Coalition, Ex Parte Presentation entitled “Inmate Payphones: Clearing Up Misconceptions,” filed June 7, 2000 (“RBOC Ex Parte”). The RBOC/GTE Coalition argues that: (1) classifying inmate telephone service as “non-regulated” for purposes of Telecommunications Act safeguards “would be a sharp departure from prior practice” (*Id.* at 1); (2) inmate services “fall within [the Act’s] definition of operator services” (*Id.* at 2); (3) there are no material differences between public payphone-accessible operator services and inmate collect calling

services; and (4) there is no danger that ILECs will subsidize or discriminate in favor of their inmate collect calling services.

None of these arguments has merit. First, since this proceeding is on voluntary remand from the ICSPC's appeal of the FCC's 1996 orders, it is precisely the Commission's "prior practice" of the last four years that is at issue. Second, inmate collect calling service do *not* fall within the Act's definition of operator services." Third, there are critical differences between payphone-accessible operator service and inmate collect calling service, both in terms of their typical configuration and their relationship to the promotion of competition in public payphone service and inmate telephone services, respectively. Finally (and although the classification of inmate collect calling service must be changed irrespective of specific findings as to the impact on competition) there are clear indications that the misclassification of inmate collect calling service *is* perpetuating ILEC subsidies and discrimination and harming competition in the provision of inmate telephone service.

## I. THE RBOC ARGUMENT RELIES ON CIRCULAR REASONING

The RBOCs argue that treating inmate collect calling service as "inmate telephone service" for purposes of Section 276 "would be a sharp departure from prior Commission practice" allegedly classifying the service in the same "operator service" category as collect calling services accessible from public payphones. This argument is circular because it references as "prior practice" the very same orders that are under reconsideration in this proceeding.

The RBOC/GTE Coalition begins from the premise that the FCC has previously treated collect calling services offered to inmates of confinement facilities in the same manner as it treats collect calling services provided to payphone users. Based on this initial premise, the Coalition concludes that treating inmate collect calling service differently from payphone operator services "would be a sharp departure from prior Commission practice." RBOC Ex Parte at 1. The RBOCs attempt to support their premise by larding their presentation with quotations and citations from the *First Payphone Order*,<sup>1</sup> *Payphone Reconsideration Order*,<sup>2</sup> the *CAM Order*,<sup>3</sup> and the *CAM Order on Review*.<sup>4</sup> But all of these

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<sup>1</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order*, 11 FCC Rcd 20541 (1996).

<sup>2</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Order on Recon.*, 11 FCC Rcd 21233 (1996).

<sup>3</sup> *Local Exchange Carriers Permanent Cost Allocation Manual for the Separation of Regulated and Nonregulated Costs*, Memorandum Opinion and Order, 12 FCC Rcd 15145 (1997).

rulings are under reconsideration in this voluntary remand proceeding. The *First Payphone Order* and *Payphone Reconsideration Order* are the very same rulings that the Commission has undertaken to reconsider in this remand proceeding, on the basis that they inadequately addressed inmate services issues. Since these orders are themselves under reconsideration on remand, they cannot be the basis for an argument for adherence to “prior practice.” And it is equally illogical for the RBOCs to cite the *CAM Order* and the *CAM Order on Review* as exemplars of “prior practice.” Those orders expressly state that the rulings therein are based on the Commission’s decisions in the *First Payphone Order* and *Payphone Reconsideration Order*. In the *CAM Order on Review*, the Commission made clear its view that it could not reach a result in that proceeding that was inconsistent with the decisions in the *First Payphone Order* and *Payphone Reconsideration Order*.

In sum, the RBOCs’ arguments from prior practice are patently circular. The issue before the Commission is how to classify inmate collect calling service for purposes of the 1996 Act. If the Commission concludes that its previous decision of this issue was incorrect, then it must indeed make a “sharp departure” from its prior incorrect rulings. But that is an appropriate result.

## **II. INMATE COLLECT CALLING SERVICE IS NOT THE SAME AS PUBLIC-PAYPHONE-ACCESSIBLE “OPERATOR SERVICE”**

The RBOCs also contend that inmate collect calling service should be treated the same as payphone-accessible operator service because inmate services “‘fall within [the Act’s] definition of operator services.’” RBOC Ex Parte at 2 (*quoting CAM Order on Review*, 14 FCC Rcd at 16791, ¶ 11 & n.38). In fact, inmate services do not fall within the Act’s definition of “operator services” and are subject to different regulations from ordinary operator services. *Policies and Rules Concerning Operator Service Providers, Report and Order*, 6 FCC Rcd 2744, 2752 & n.30 (1991) (“the provision of inmate-only phones presents an exceptional set of circumstances that warrants their exclusion from the regulation being considered herein,” therefore, “the carrier providing service to inmate-only phones at correctional institutions would not fall under the definition of ‘provider of operator services’”). *See also* 47 U.S.C. § 226(a)(7); 47 CFR §§ 64.708(i), 64.710(b)(3).

## **III. THERE ARE KEY DIFFERENCES BETWEEN INMATE CALLING SERVICES AND PAYPHONE OPERATOR SERVICES**

The RBOCs also contend that there are no material differences between public payphone-accessible operator services and inmate collect calling services. Contrary to the RBOCs’ position, there are major differences between the provision of operator services in

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<sup>4</sup> *Local Exchange Carriers Permanent Cost Allocation Manual for the Separation of Regulated and Nonregulated Costs*, Memorandum Opinion and Order, 14 FCC Rcd 16784 (1999).

the public payphone market and the provision of collect calling services in the inmate service market, differences that justify different treatment of the two types of services for purposes of Section 276.

First, while operator services account for a small fraction of public payphone calls, collect calling service is the *only* service available to inmates at most confinement facilities. Second, unlike public payphone-accessible operator services, inmate collect calling service is usually provided with dedicated inmate call processing facilities that reflect the unique environment and security needs of confinement facilities.

#### **A. Collect Calling Service Represents 100% of Call Volume at Most Inmate Facilities**

The role of inmate collect calling service in the inmate service environment is markedly different from the role of public payphone-accessible operator services in the public payphone environment. In the payphone environment, the predominant service offered is local coin calling.<sup>5</sup> Presubscribed operator services, including collect calling represent only about 6% of payphone calls. Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Third Report and Order*, 14 FCC Rcd 2545, ¶ 151 (1999). In most confinement facilities, by contrast, collect calling service -- provided solely by the facility's presubscribed service provider -- is the *only* telephone service offered. Since coin calling is not allowed, calls that would otherwise be placed as coin calls (including local calls, which represent 75 – 85% of the calls in city and county jail facilities) are placed on a collect basis instead.

Given that the only inmate service offered in most facilities is collect calling service, if that service is not included in “inmate telephone service,” then the term “inmate telephone service” has no meaning in Section 276. The Commission may not adopt an interpretation of the Act that is contrary to the plain meaning of the Act.

Further, because collect calling service is the only service offered in most confinement facilities, the Commission's classification of inmate collect calling services has huge significance for the inmate service market. By misclassifying the ILECs' inmate collect calling service operation as “regulated” (*i.e.*, in the accounting sense, so that costs and revenues – and bad debt – are commingled with the costs and revenues for local exchange and exchange access services), the Commission allows the ILECs to continue subsidizing and discriminating in favor of the only service they provide in most of the inmate market. A comparable mistake in the payphone service market would have been to classify local coin calling service as “regulated” so that the ILECs could continue

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<sup>5</sup> Thus, in order to carry out the mandate of Section 276 with respect to public payphones, the Commission has defined local coin calling service as “nonregulated” for purposes of the Commission's nonstructural payphone safeguards.

subsidizing that service even though the payphone equipment was nominally “nonregulated.” Such a misclassification defeats the whole purpose of the Commission’s Section 276 safeguards and hinders the emergence of the service competition mandated by Section 276.

**B. Inmate Collect Calling Service Is Typically Provided Using Dedicated Equipment**

Another important difference between inmate collect calling services and payphone operator services is that public-payphone-accessed operator services are usually provided by means of network facilities that are not dedicated to a particular payphone or group of payphones.<sup>6</sup> By contrast, the dominant paradigm for the provision of inmate telephone service is the use of dedicated, usually on-site, equipment that is separate from network operator services platforms and that integrates the functions of collect call processing and inmate call monitoring and restriction. Dedicated facilities are essentially to addressing the security and fraud control problems that are endemic to the inmate service environment. Thus, Bell Atlantic admits that, in over 80% of Bell Atlantic’s prison accounts, inmate collect call processing is performed by a “3d Party Vendor’s Inmate Call Processing Equipment.” See RBOC Ex Parte, Attachment, p. 3, entitled “Inmate Collect Calling with Store and Forward.” For independent inmate service providers, the percentage is almost 100%.

As a result of the predominance of dedicated facilities, inmate collect calling service is readily segregable, for purposes of Section 276 accounting and nondiscrimination safeguards, as a “nonregulated” service distinct from “regulated” operator services. Cf. RBOC Ex Parte at 3 (claiming that distinguishing costs of inmate calling service would be “unnecessarily burdensome”).

Another consequence of the use of dedicated facilities is that the provision of inmate collect calling services (currently misclassified as “regulated”) *cannot be* easily separated from security functions (such as screening inmates’ calls against permitted – or prohibited – call lists) that are indisputably part of “nonregulated” inmate telephone service for purposes of Section 276.

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<sup>6</sup> Some public-payphone-accessible operator services are provided using store-and-forward payphone equipment. However, most operator service calls are routed to network-based operator facilities.

#### **IV. MISCLASSIFICATION OF ILEC INMATE COLLECT CALLING SERVICES FRUSTRATES THE ACHIEVEMENT OF THE GOALS OF SECTION 276**

The Commission is required to utilize safeguards at least equal to *Computer III* safeguards in order to prevent Bell companies from subsidizing and discriminating in favor of their inmate telephone service in violation of Section 276. The misclassification of inmate collect calling costs and revenues on the “regulated” side of the *Computer III* dividing line, so that the competitive risk of providing the service is borne by the “regulated” Bell entity, defeats the purpose of the safeguards requirement of Section 276.

The RBOCs argue that, even if the Commission did misclassify inmate collect calling services, there is no need to revisit the classification because there is no realistic danger of improper subsidies or discrimination in favor of ILECs’ inmate collect calling services. RBOC Ex Parte at 3. The RBOCs offer no convincing proof for this claim. In fact, the record evidence indicates that subsidies and discrimination are likely and are hindering both competition and the widespread deployment of service.

##### **A. Allowing ILECs to Subsidize Their Inmate Collect Calling Service Hinders Competition and the Deployment of Inmate Services**

By allowing Bell companies to leave with their regulated operations the bulk of the costs and all of the risks associated with inmate collect calling, the Commission has eviscerated the *Computer III* safeguards mandated by Congress to prevent Bell companies from subsidizing their inmate telephone service, to the detriment of competition.

As discussed in ICSPC’s comments, independent inmate service providers pay all the costs associated with their provision of inmate collect calling service. Independent inmate telephone service providers receive revenue only for bills actually collected and must pay the costs of transmission, processing, validation and billing whether or not the revenue for the call is ever collected.

By contrast, the FCC’s classification of ILECs’ inmate calling services as “regulated” allows the costs of ILECs’ inmate collect calling services to be subsidized by regulated local exchange and exchange access revenues. To the best of the ICSPC’s knowledge, as a result of the misclassification of inmate collect calling service as “regulated,” the vast majority of the costs involved in providing inmate telephone service are assigned to the ILECs’ regulated accounts. The ILEC’s regulated side, not the nonregulated “payphone provider” entity, pays: (1) local and intraLATA network usage costs;<sup>7</sup> (2) validation costs; and (3)

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<sup>7</sup> The RBOC Ex Parte Attachment, p. 3, indicates that, under the “Inmate Collect Calling with Store and Forward” scenario, intraLATA calls processed by a “3<sup>rd</sup> Party Vendor” are sent to Bell Atlantic’s network as “1+10” calls (after the “3<sup>rd</sup> Party Vendor” performs call processing). This suggests that the ILEC (Bell Atlantic in this attachment)

billing and collection costs. Further, since the “third-party” vendor that provides dedicated call-processing equipment is processing the call on behalf of the regulated ILEC “operator service provider,” the ILEC regulated side must pay the vendor some form of fee for performing the call-processing function. In addition, the ILEC pays the confinement facility, either directly or indirectly (by paying its nonregulated “payphone provider” who in turn pays the confinement facility) a commission on each “regulated” collect call. *See* RBOC Ex Parte, Attachment 3 (indicating that “Bell Atlantic IntraLATA OSP . . . Pays PCC/Commission to Inmate Telephone Service Providers for calls made from their inmate phones”). In short, all the major costs of providing inmate telephone service are incurred by the regulated ILEC entity. Assigning all these costs to the ILEC’s regulated accounts means that the FCC’s *Computer III* safeguards cannot effectively prevent the ILEC from subsidizing those costs with local exchange or exchange access revenues.

Equally important, the risk of nonrecovery of those costs is also borne by the ILEC’s regulated side. As discussed in ICSPC’s comments, the risk of fraud and the percentage of uncollectables associated with inmate telephone service is far higher than for other telecommunications services. Since the costs and revenues are treated as regulated, the risk of non-collection of those revenues is a risk for the regulated entity. Moreover, since industry practice is to pay commissions on billed revenue, *not* collected revenue, the commission revenue received by the non-regulated ILEC entity and/or the confinement facility is *not* at risk. All the risk of the ILEC’s inmate telephone service business is borne by the ILEC’s regulated side.

The RBOCs’ first response to all of this is to say that, even though the classification of inmate collect calling service as regulated may allow them *opportunities* to cross-subsidize, they have no *incentive* to do so because “LECs generally operate under price-cap regulation, so any losses they suffer in providing operator services to inmate institutions cannot be made up through other services.” RBOC Ex Parte at 3.

The presence or absence of incentives to subsidize under price cap regulation is to some extent a matter of speculation. The question need not be resolved here, however. Congress has resolved it for the Commission by mandating that *Computer III* safeguards, at a minimum, be employed, irrespective of specific findings of danger to competition. 47 U.S.C. § 276(b)(1)(C).

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might be billing one of the entities involved in originating the call (*i.e.*, Bell Atlantic’s non-regulated “inmate service” entity, the “3<sup>rd</sup> Party Vendor,” or the confinement facility) for local or intraLATA usage on these calls. However, under the Commission’s current rulings, “the operator service receivables belong to the LEC.” RBOC Ex Parte at 3. In other words, the *ILEC* bills and collects from the *called party* the charges for a collect call, including local or intraLATA usage charges. Therefore, if the ILEC also billed one of the originating entities for local or intraLATA usage, it would be collecting twice for the same call.



Nevertheless, record evidence suggests it is highly likely that some ILECs *are* operating their inmate collect calling services at a loss. For example, the ICSPC showed that, in a number of states, independent providers of inmate calling service cannot profitably serve city and county confinement facilities where the calling is predominantly local, because the rates a provider would have to charge for local collect calls in order to recover its costs are dramatically higher than existing state rate ceilings for such calls. *See* “Inmate Service Fee – 12 Minute Local Call Cost Analysis,” attached to letter to Magalie Roman Salas from Jacob S. Farber, dated April 6, 2000. *See also* “NC, SC & TN County Jail Inmate Calling Service Profitability Analysis,” attached to letter to Magalie Roman Salas from Robert F. Aldrich, dated May 9, 2000 (“ICSPC May 9 Ex Parte”). It is unlikely that the cost picture for ILECs providing service through “3<sup>rd</sup> Party Vendors” dedicated equipment is dramatically different.

The record also shows that ILECs frequently pay commissions as high as 60% to win contracts for servicing confinement facilities. *See* “Exhibit 12, Telephone Contracts and Commission,” excerpted from the Florida House of Representatives report “Maintaining Family Contact When A Family Goes to Prison” and attached to ICSPC May 9 Ex Parte. These commission levels are far in excess of the relatively modest 30% commission assumed in ICSPC’s cost model. It is highly doubtful that the rates charged by ILECs for local calls in states with low local rate ceilings allow ILECs to recover such commission payments as well as the other costs of providing inmate collect calling services.

It is also significant that, in response to a recent RFP for service to a confinement facility when asked for its level of bad debt (uncollectables) Bell Atlantic stated that, as the LEC, it had no bad debt. *See* Bell Atlantic’s Bid No. 2, Proposal for Inmate Telephone System for New River Valley Regional Jail, attached to ICSPC May 9 Ex Parte. This suggests that because they are not required to maintain separate accounts for inmate service costs and revenues, ILECs may not even be aware of the level of bad debt associated with their inmate service operations.

The RBOCs also state that any subsidy for their inmate collect calling service does not unfairly benefit their nonregulated “inmate service” operation because “LEC operator services are available to independents on the same terms and conditions as to its affiliated inmate operation.” RBOC Ex Parte at 4. This statement conveniently overlooks that, under the Commission’s current rulings, the “LEC operator services” are *not* provided to the LEC’s affiliated inmate operation: they are provided directly to the called party. All that is provided to the nonregulated “inmate service” operation is a commission. *See* RBOC Ex Parte, Attachment, p. 3. While the RBOCs may be saying, in an obscure way, that they are under an obligation to offer equivalent commissions to their own and independent “inmate service” operations, nothing in the RBOCs’ Comparably Efficient

Interconnection (“CEI”) plans filed in this proceeding indicates that they acknowledge such an obligation.<sup>8</sup>

Furthermore, even if ILECs did offer equivalent commissions to all providers, that would not prevent ILECs from continuing to subsidize their “regulated” inmate collect calling services, and thereby continuing to impede competition in the provision of such services. The result would be to limit the fairly competitive portion of the market for service to jails to a competition to be the pass-through entity for ILEC commission payments. Unless commissions were paid *only* on calls for which revenues are collected (contrary to current practice) such “fair competition” would do little or nothing to promote efficient use of resources in the provision of inmate telephone service.

In summary, because the Commission improperly classifies ILECs’ inmate collect calling services as “regulated,” the Commission’s current implementation of Section 276 safeguards does nothing to prevent subsidizing of ILEC inmate telephone services by revenues from regulated local exchange service, contrary to the mandate of Section 276.

**B. Misclassification Fails to Prevent the ILECs from Discriminating in Favor of Their Own Inmate Telephone Service, in Violation of Section 276**

The Commission’s misclassification of inmate collect calling service on the “regulated” side of the *Computer III* line also renders inapplicable the *Computer III* safeguards that were intended to prevent ILECs from discriminating in favor of their own inmate telephone service. As with subsidies, the RBOCs respond with the unsupported contention that no significant discrimination has resulted. Again, as noted above with respect to subsidies, specific findings of discrimination are not necessary because Congress has directed the Commission to apply *Computer III* safeguards, at a minimum, to ILECs’ inmate telephone service whether or not the Commission makes findings of specific harm to competition. In fact, the record indicates numerous ways in which the misclassification of inmate telephone service enables ILECs to discriminate in favor of their own inmate collect calling services.

First, as fully discussed in IV.A. above, the misclassification of inmate collect calling service allows ILECs to evade the requirement to charge their own operations the same rates for essential services such as local usage, call validation, and billing and collection as the rates assessed on independent inmate calling service providers. The ILEC charges independent inmate service providers, but does not charge its own “nonregulated” inmate

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<sup>8</sup> Accordingly, in the event that the Commission does not modify its rulings regarding the classification of inmate collect calling service, the Commission must require ILECs to modify their CEI plans to reflect the offering of commission payments for inmate collect call traffic on a nondiscriminatory basis.

service operation, for these essential services. Further, the ILEC can require independent inmate service providers to bear the risk that end user charges for collect calls will not be collected from the called party, while not requiring its own "nonregulated" operation to bear the risk of uncollectables.

Second, the FCC's implementation of Section 276 does not require ILECs to make available the same fraud prevention information to its own collect calling operation and that of independent service providers. Information maintained by the "regulated" ILEC entity regarding its local service customers and local calling patterns is very useful in preventing fraudulent calling by inmates and in reducing uncollectable revenue. If the ILEC's inmate collect calling service operation is defined as part of "regulated" service, the ILEC is not required by the FCC's Section 276 rules to make such information available to independent service providers on the same basis as it is made available for the ILEC's own inmate collect calling operation.

The RBOCs argue that there is no discrimination here because ILECs' "fraud control procedures [developed] as part of their OS [operator service] operations ... are available to independents who purchase LEC OS." RBOC Ex Parte at 4. This statement is incoherent and unexplained. The RBOCs do not reference the tariff under which independent inmate service providers allegedly can "purchase LEC OS." Moreover, the mere existence of such a tariffed OS offering would not eliminate discrimination. Under the current accounting rules the ILEC's nonregulated accounting entity does *not* "purchase LEC OS." It would serve no purpose for the nonregulated ILEC entity to "purchase LEC OS," because, under current rulings, it is the regulated ILEC entity that provides the inmate collect calling service to, and collects the collect call charges from, the end user.

Third, the misclassification of ILECs' inmate telephone service means that ILECs may continue to subject independent service providers to the "Code 50 Reject" problem, in which independent inmate service providers (1) are unable to effectively screen for collect calls placed to numbers served by competitive local service resellers and other non-facilities-based competitive local exchange carriers, and (2) are unable to use their billing arrangements with ILECs to bill collect calls (including local and intraLATA calls) to such numbers. By contrast, ILECs are able to use their billing agreements to effectively transfer responsibility for billing such calls to the local service reseller that serves the called party. *See Attachment 1.*<sup>9</sup>

The RBOCs contend that the ICSPC position on "Code 50 Rejects" is based on a misunderstanding, arguing that independent inmate service providers could avoid "Code 50 Rejects" by querying the long-term number portability ("LNP") database before completing a collect call. Substantial information regarding the Code 50 Reject problem

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<sup>9</sup> It may also be that ILECs have timely access to information which is not included in LIDB or the LNP database, and which would enable ILECs to avoid completing calls to numbers served by their competitive reseller customers.

and industry recognition thereof was provided in the material attached to the ICSPC's June 23, 2000 ex parte letter. As demonstrated therein, independent inmate service providers cannot avoid the Code 50 Reject problem by querying the long-term number portability database because that database does not identify competitive local exchange carriers ("CLECs") who resell local service or who use the incumbent local exchange carrier's ("ILEC's") switch as an unbundled network element ("UNE"). It is such non-facilities-based CLECs (not facilities-based CLECs who are identified in the LNP database) that *account for the overwhelming majority of all Code 50 calls.*

## CONCLUSION

In short, the ILECs' integration of inmate collect calling with regulated services under existing FCC rulings means that the Commission's *Computer III* safeguards, on which the Commission is relying to implement Section 276, are totally powerless to prevent subsidies and discrimination favoring ILECs' inmate collect calling services. Those safeguards, which attempt to prevent subsidies and discrimination in connection with *nonregulated* activities, are simply inapplicable as long as the ILECs' *regulated* side incurs the costs and risks associated with transmission, processing, validation, billing and collection for the collect calls that are the essence of inmate telephone service.

# **ATTACHMENT 1**

# Ordering and Billing Forum

## Issue Identification Form

OBF Issue Number		1553
Date Submitted		8/12/97
Date Accepted	8/13/97	at OBF #59
Initial Closure	4/21/98	at OBF #62
Final Closure	11/2/98	at OBF #64
Issue Category		Resolved

Part A, Page 1

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### Issue Title: Processing of Misdirected Messages in a Post-LNP Environment

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**Issue Statement:** : When an alternately billed message is directed incorrectly to the incumbent company due to a Billing Validation Database timeout or failure, the incumbent company should forward the message unto the appropriate company. The incumbent company is the only company with knowledge of the billing company ownership due to the regionality of the LSMS databases.

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### Impact of Other Issues or Procedures:

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**Desired Results:** Determine how to process misdirected messages.

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### Committee Assignment:

**Associated Committee:**

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**Issue Champion:** Stephanie Cowart  
**Address:** 600 N 19<sup>TH</sup> Street  
Birmingham, AL 35244

**Company:** BellSouth  
**Telephone:** 205-321-6760

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### Resolution:

Section 7.3 Message Return Criteria and Section 7.8 Local Number Portability in the EMI Document will be updated to include "Special Processing Requirements for returns due to change in Local Service Provider (Return Code 50)" for exchange carrier and interexchange carrier calls.

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## **7.3 Message Return Criteria**

### **General**

Every effort should be made to return the message to the sender in its original format/content. This includes Unbillable, Post Billing Adjustments and Uncollectible records.

### **Special Processing Requirements for Returns Due to Change in Local Service (Return Code 50)**

**Note:** This process does not apply to any other defined return codes.

#### **EC (Exchange Carrier) Calls**

Traditionally, EC (Exchange Carrier) calls that bill outside the originating EC territory are sent to the perceived billing EC. If the calls are unbillable solely as a result of a change in EC/LSP (Local Service Provider), it is the responsibility of the perceived EC/LSP to forward the calls to the correct EC/LSP and not return them to the originating company for reason defined as Return Code 50.

#### **Interexchange Carrier Calls**

Interexchange Carrier calls that are billed by an EC will be sent to the perceived billing EC (Exchange Carrier). If the customer has changed Local Service Providers and the Interexchange Carrier does not know the true billing Local Service Provider, the perceived Local Service Provider will return the calls to the Interexchange Carrier using Return Code value 50 and if known will populate the LSPID (Local Service Provider ID, e.g. Company Code) in positions 168-171.